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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10  
11 In the Matter of the Accusation Against:

Case No. *2013-615*

12 **MARISSA JOY SILAN**  
13 **554 6th Ave., Apt. 203**  
**San Francisco, CA 94118**

**A C C U S A T I O N**

14 **Registered Nurse License No. 697964**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
21 Department of Consumer Affairs.

22 2. On or about February 20, 2007, the Board issued Registered Nurse License Number  
23 697964 Marissa Joy Silan (Respondent). The Registered Nurse License was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless  
25 renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1           4.     Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
2     that the Board may discipline any licensee, including a licensee holding a temporary or an  
3     inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
4     Nursing Practice Act.

5           5.     Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
6     deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
7     to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the  
8     Board may renew an expired license at any time within eight years after the expiration.

9                                 STATUTORY AND REGULATORY PROVISIONS

10          6.     Code section 2761(a) states, in pertinent part, that the Board may take disciplinary  
11     action against a certified or licensed nurse or deny an application for a certificate or license based  
12     upon unprofessional conduct.

13          7.     Code section 2762 states, in pertinent part:

14                 “In addition to other acts constituting unprofessional conduct within the meaning of this  
15     chapter it is unprofessional conduct for a person licensed under this chapter to do any of the  
16     following:

17                                 ...

18                 “(b) Use any controlled substance as defined in Division 10 (commencing with Section  
19     11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
20     Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
21     himself or herself, any other person, or the public or to the extent that such use impairs his or her  
22     ability to conduct with safety to the public the practice authorized by his or her license. . .”

23          8.     California Code of Regulations, title 16, section 1444, states:

24                 “A conviction or act shall be considered to be substantially related to the qualifications,  
25     functions or duties of a registered nurse if to a substantial degree it evidences the present or  
26     potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
27     safety, or welfare. Such convictions or acts shall include but not be limited to the following:

28     ///

1       “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
2 subdivision (d) of Penal Code Section 11160.

3       “(b) Failure to comply with any mandatory reporting requirements.

4       “(c) Theft, dishonesty, fraud, or deceit.

5       “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the  
6 Penal Code.”

#### 7                                   COST RECOVERY

8       9.     Code section 125.3 provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
13 included in a stipulated settlement.

#### 14                                  CAUSE FOR DISCIPLINE

15               (Unprofessional Conduct -- Driving While Under the Influence of Drugs)

16       10.    Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(b)  
17 for unprofessional conduct in that she used marijuana<sup>1</sup> in a dangerous manner, as follows:

18       11.    On or about July 19, 2011, in Oakland, California, Respondent drove a motor vehicle  
19 while under the influence of marijuana. Respondent admitted to police officers that she smoked  
20 marijuana immediately before driving her car, and admitted to being under the influence of the  
21 drug at the time of driving. Respondent was on her way home from her job at Children's  
22 Hospital, where she worked as a registered nurse, at the time of the incident. Respondent was  
23 arrested for violation of California Vehicle Code section 23152(a) (driving under the influence of  
24 drugs).

25       ///.

26 \_\_\_\_\_  
27       <sup>1</sup> Marijuana is a Schedule I controlled substance as designated by Health and Safety Code  
28 section 11054(d)(13), and a dangerous drug pursuant to Business and Professions Code section  
4022.

1 PRAYER

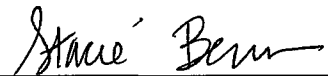
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 697964, issued to Marissa  
5 Joy Silan;

6 2. Ordering Marissa Joy Silan to pay the Board of Registered Nursing the reasonable  
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: FEBRUARY 13, 2013

  
for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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